

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1.
  - a. Whether there should be reimbursement for date of service 11/07/01.
  - b. The request was received on 04/16/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Letter Requesting Dispute Resolution
  - b. TWCC 66 forms
  - c. TWCC 62 forms
  - d. Rx pricing data
  - e. Letter dated July 1999
  - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. TWCC 60 and Response to a Request for Dispute Resolution
  - b. Rx pricing data
  - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/26/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/27/02. The response from the insurance carrier was received in the Division on 07/02/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by the Requestor is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: Letter dated 06/15/02  
"...The disputed issue is that the Carrier has denied payment stating 'F' fee guidelines MAR reduction no listing in required publication.... The expected out come [sic] of this issue is that we feel the claims should be paid. In accordance with the Pharmaceutical Fee Guideline Section II B the AWP for medications shall be determined utilizing the monthly publication by Medispan. However, Medispan no longer exists (see letter dated

July 1999 from FirstDataBank). Therefore, Medispan no longer publishes AWP listings for any medications and makes that section of the Pharmaceutical Fee Guideline invalid. We have provided the Carrier with copies of invoices from the maker's of the products showing what the AWP is for the medications so there should be no problem in determining a fair and reasonable reimbursement for the medications. As FirstDataBank has inadvertently left off these medications in there [sic] publication we have enclosed a copy of the last time the medication in question was listed in the Medispan from the 3<sup>rd</sup> quarter 1999 Generic Buying and Reimbursement Guide. As well as documentation from the maker of the products stating what the AWP is for the medication."

2. Respondent: Letter dated 07/01/02  
"...11-7-2001 Vanadom 350 mg #60 billed \$164.46 and paid \$0.00 'F' ....  
Pharmaceutical Fee Guideline (II) (B): *The AWP shall be determined utilizing the monthly publication of Medispan that is in effect on the date of service...The two Medispan publications to be used are: 1) Prescription Pricing Guide; or 2) Generic Buying or Reimbursement Guide.* FirstDataBank acquired Medispan and discontinued the two Medispan publications to be replaced with FirstDataBank's PriceAlert on August 15, 1999. There is no listing for Vanadom 350 mg...in FirstDataBank's Price Alert October 2001 issue of Price Alert.... The Vanadom 350mg is not listed in the required publication. The medications were audited according to the Pharmaceutical Fee Guidelines.... Price-Alert did not inadvertently omit Vanadom.... The documentation does not support reasoning for medications outside the usual and customary standards. If Carisoprodol listed in Price-Alert had been billed versus Vanadom, (Provider) pharmacy would have been reimbursed."

#### IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 11/07/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer. Per the provider's TWCC-60, the amount billed is \$165.46; the amount paid is \$0.00; the amount in dispute is \$165.46. The provider lists the MAR as \$163.18 on the Table of Disputed Services.
3. The carrier denied the billed services by code, "F – NOT LISTED IN REQUIRED PUBLICATION."
4. According to the letter from FirstDataBank dated July, 1999, "With the acquisition of Medi-Span, FirstDataBank is working toward streamlining all publications in an effort to meet the needs of our customers. Effective with this issue, we will be discontinuing the Prescription Pricing Guideline... the Hospital Formulary Pricing Guide...and the Generic Buying and Reimbursement Guide...First DataBank's *PriceAlert* will replace current subscriptions to the above publications. *PriceAlert* offers customers access to quick, easy-to-use pricing and product information.... *PriceAlert* is published on the 15<sup>th</sup> of each month. This means that you will receive your next publication August 15, 1999."

5. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
11/07/01	Vanadom 350mg #45	\$165.46	\$0.00	F	AWP/unit x number units x \$1.09 + \$4.00 = MAR	MFG PGR (II) (A), (B)	In 1999, Medispan ceased to exist, therefore, the PGR's reference to this particular pricing source is outdated. FirstDataBank purchased Medispan and replaced it with <i>PriceAlert</i> . Since the date of service occurred six months after the demise of Medispan, there was no listing for Vanadom because there was no Medispan. Vanadom did not appear in the issue of <i>PriceAlert</i> covering the date of service. The medication was listed in the GM Pharmaceutical Guideline, which manufactures Vanadom. Since Medispan was non-existent on the DOS, it is reasonable that the PFG would support the usage of another acceptable pricing data guide. The provider, in the attempt to meet the burden of proof, provided pricing data available during the span of time from 1999 to January 02, during which no drug would have been listed in Medispan since it was discontinued. The provider provided the 3 <sup>rd</sup> quarter Medispan pricing data, the GM Pharmaceutical Guideline dated 09/12/00, and the 01/02 Redbook data pricing guide. Redbook is a nationally recognized pricing data source. Since GM Pharmaceuticals manufactures the medication, the MDR will utilize the AWP from that publication to determine reimbursement. Reimbursement in the amount of <b>\$127.12</b> is recommended. $(\$250.73 \div 100 = \$2.51 \times 45 = \$112.95 \times \$1.09 = \$123.12 + \$4.00 = \$127.12)$
<b>Totals</b>		\$165.46	\$0.00				The Requestor is entitled to reimbursement in the amount of <b>\$127.12</b> .

## V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$127.12 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 3rd day of March 2003.

Donna M. Myers  
Medical Dispute Resolution Officer  
Medical Review Division

DMM/dmm